



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
191 MAIN STREET
EAST MILLINOCKET, MAINE 04430

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

UTILITY LINE PERMIT ULP 448

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Eastern Maine Electric Cooperative for Utility Line Permit ULP 448, finds the following facts:

1. Applicant: Eastern Maine Electric Cooperative
16 State Street
Houlton, ME 04730
2. Date of Completed Application: October 1, 2013
3. Location of Proposal: Lakeville, Penobscot County
Tax Map Lots # 23 and 27 on Plan 10
Tax Map Lots # 2-13 on Plan 12
Tax Map Lots # 7 and 7.2 on Plan 01
4. Zoning: (P-GP) Great Pond Protection Subdistrict
(M-GN) General Management Subdistrict
(P-WL1) Wetland Protection Subdistrict
(P-FP) Flood Prone Protection Subdistrict
5. Waterbody: Bottle Lake Stream, Junior Lake

The Commission has identified Junior Lake as a management class 7, resource class 1B, accessible, undeveloped lake with the following resource ratings: significant fisheries resources, significant scenic resources, significant shore character, significant cultural resources.

6. Proposed Development: 15,330 feet of linear above-ground utility line within existing and new electric distribution line easements, crossing beneath Bottle Lake Stream by means of trenchless directional boring.
7. The applicants seek approval for the installation of approximately 15,330 feet of aboveground electric utility distribution line for the purpose of providing service to residential and non-residential property owners along Stream Road and Red Pine Road. The proposed 49 pole utility distribution line would extend from an existing distribution pole located on Boyce Cove Road, across private property along a private land management road to and beneath Bottle Lake Stream, and along Stream Road and Red Pine Road, both private graveled access roadways. The proposed utility line would be supported by wood poles with steel cable anchors. Poles would be an average of 34 ft. in height and spaced approximately 300 feet apart. The proposed poles would be located approximately 5 feet from the edge of the traveled way of Stream Road and Red Pine Road. The average height of utility lines would be 30 to 34 feet above ground surface. The applicant has obtained utility easements from all landowners to be impacted by the proposed utility line installation.

8. To install the proposed aboveground utility line, the applicants propose to use a "Digger Derrick" to drill holes for pole and anchor installation. Woody vegetation in excess of 15 feet in height will be cleared (15 feet either side of utility lines) along the existing right of way of Stream Road and Red Pine Road and within the utility easement area. No wetland alteration will occur during pole and/or anchor installation.
9. To install the proposed utility line beneath Bottle Lake Stream, the applicants propose to use directional drilling to bore beneath the stream for installation of two (2) electrical line conduits. The bore entry point will begin at a point at least 100 feet from the normal high water mark of Bottle Lake Stream. The boring will progress at a downward angle until reaching a depth of 8 feet below the bottom of Bottle Lake Stream. The boring will be thence continued laterally at a depth of 8 feet below the stream bed elevation until the opposite side of the stream is reached, at which point it will continue at an upward angle until it reaches the surface of the ground. The exit point for the boring will be at a point at least 100 feet from the normal high water mark of the stream. Above ground utility poles will be established at each end of the directional boring, at least 100 feet from the normal high water mark of the stream. The proposed water-crossing method and pole installation will result in no alteration of wetlands.
10. No new cleared openings within 100 feet of the normal high water mark of the lake are proposed as part of this application, except for the removal of woody vegetation exceeding fifteen feet (15') in height within a 15 foot radius of each utility pole. No wetland areas will be affected by the utility line installation.
11. The Maine Natural Areas Program reviewed the application and indicated that there are no known rare botanical features that would be disturbed within the project site.
12. The Department of Inland Fisheries and Wildlife reviewed the application and had no concerns as long as proper erosion and sedimentation control measures are used during construction to prevent sedimentation of the waterbody.
13. The Maine Historic Preservation Commission has reviewed the application and has stated that Bottle Stream has not been surveyed for the presence of archaeological sites, but if using directional boring to make the Bottle Lake Stream crossing with a 100 foot minimum setback from the stream, there will be no need for an archaeological survey.
14. The U.S. Army Corps of Engineers has reviewed the application and states that since no fill will be placed in waters or wetlands, no further action is required for this work.
15. Pursuant to Section 10.22,A,3,c(23) and 10.23,E,3,c(19) of the Commission's Land Use Districts and Standards, utility facilities other than service drops are allowed with a permit from the Commission in the (M-GN) General Management Subdistrict and the (P-GP) Great Pond Protection Subdistrict, respectively, pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.
16. Pursuant to Section 10.23,N,3,d,(9) of the Commission's Land Use Districts and Standards, utility facilities may be allowed within a (P-WL) Wetland Protection Subdistrict as a special exception upon issuance of a permit from the Commission according to 12 M.R.S.A §685-B and subject to the applicable requirements set forth in Sub-Chapter III provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.
17. Pursuant to Section 10.25,T,2,a of the Commission's Land Use Districts and Standards, utility facilities may be allowed within a (P-FP) Flood Prone Protection Subdistricts or FEMA zones A, AE, A1-30, or VE upon issuance of a permit from the Commission pursuant to 12 M.R.S.A., §685-B, and subject to the applicable requirements set forth in Sub-Chapter III, namely: Development in flood prone areas, including areas of special flood hazard, shall:

- (a) Be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (b) Use construction materials that are resistant to flood damage;
- (c) Use construction methods and practices that will minimize flood damage; and
- (d) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

Based upon the above Findings, the Commission concludes that:

1. In accordance with Section 10.23,N,3,d,(9) of the Commission's Land Use Districts and Standards, The proposed electric utility distribution line will meet the applicable requirements of Subchapter III for special exceptions in that:
 - a. The applicants have shown by substantial evidence that alternative routes for the distribution line would add substantial cost due to the length of line necessary; and would reduce the number of property owners who have committed to connecting to the proposed distribution line, and are therefore not reasonably available to the applicants.
 - b. The applicants have shown by substantial evidence that the use will be buffered from other uses or resources within the subdistricts with which it is incompatible in that the installation of the distribution line beneath the stream bed, the location of poles no less than 100 feet from the normal high water mark of Bottle Lake Stream, and the maintenance of the 100 foot vegetated buffer along the riparian edges of the stream will minimize or even eliminate any adverse scenic impacts. Moreover, the proposed distribution line will be installed along existing roadways and within existing utility rights of way.
2. In accordance with Section 10.25,T,2,a of the Commission's Land Use Districts and Standards, the applicant has demonstrated that the proposed distribution pole installation in flood prone areas will;
 - (a) Be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) Use construction materials that are resistant to flood damage;
 - (c) Use construction methods and practices that will minimize flood damage; and
 - (d) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

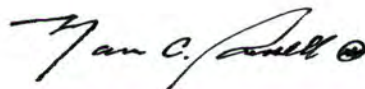
Therefore, the Commission approves the application of Eastern Maine Electric Cooperative with the following conditions:

1. The Standard Conditions of Approval for Utility Line Permits (ver. 4/04), a copy of which is attached.
2. The standards for Vegetative Clearing, Section 10.27,B of the Commission's Land Use Districts and Standards, a copy of which is attached.
3. No above-ground portions of the authorized utility line shall be located within 100 feet of the normal high water mark of Bottle Lake Stream. No new cleared openings shall be created within 100 feet of the normal high water mark of Bottle Lake Stream, with the exception of clearing necessary to remove woody vegetation exceeding 15 feet in height within 15 feet radius of the distribution line poles.
4. The enclosed permit certificate must be posted in a visible location on the project site immediately after receipt and during development of the site and construction of any structures and activities approved by this permit.

5. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
6. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
7. Erosion control devices, temporary and permanent, must be installed following the Maine Department of Environmental Protection's, Maine Erosion and Sediment Control BMPs Manual (March 2003). All areas of disturbed soil must be promptly reseeded and stabilized with mulch and maintained in a vegetated state to prevent soil erosion. In areas where re-vegetation is not initially successful, additional measures to control erosion and sedimentation shall be undertaken as often as necessary to be effective.
8. All operations shall be stopped where the continuation of such operations will cause or contribute to the occurrence of erosion or the sedimentation of surface waters, whether such occurrence is precipitated by exceptionally wet weather, the failure of water control measures, or other factors. Adequate steps must be taken immediately to stop any erosion or sedimentation of surface waters and to correct the situation which led to such occurrence.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT EAST MILLINOCKET, MAINE, THIS 5th DAY OF NOVEMBER, 2013.



for: Nicholas D. Livesay, Executive Director



STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

STANDARD CONDITIONS OF APPROVAL FOR UTILITY LINE PERMITS

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of the structures approved by this permit.
2. This permit is limited to the proposal as set forth in the application and as modified by these and any other specified conditions of approval. All variances therefrom are subject to the review and approval of the Commission. Any variance from the application or the conditions of approval undertaken without the review and approval of the Commission constitutes a violation of the Land Use Regulation Commission Law.
3. The permittee shall secure and comply with all applicable licenses, permits and authorizations of all federal, state and local agencies, with particular regard to those regulations of the Maine Department of Environmental Protection, Maine Department of Inland Fisheries and Wildlife, and the Maine Department of Human Services.
4. The permittee shall promptly submit all information requested by the Commission demonstrating compliance with the terms of the application and all of the conditions of approval.
5. The scenic character and healthful condition of the area covered by this permit must be maintained. The area must be kept free of litter, solid wastes, junk vehicles and vehicle parts, and any other materials that may constitute a hazardous or nuisance condition.
6. All disturbed areas of soil shall be promptly revegetated and maintained in a vegetative state so as to blend with the natural surroundings and prevent soil erosion.
7. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.
8. Construction activities permitted in this permit must be begun within three (3) years of date of issue and completed within five (5) years from date of issuance of this permit. If such construction activities are not begun and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.

Adopted January 8, 1976
Revised 9/84
Revised 2/92

MAINE LAND USE REGULATION COMMISSION

Notwithstanding Condition #8 of the Standard conditions (ver.2/92), construction activities permitted in this permit must be substantially started within two years of date of issue and substantially completed within five years from date of issuance of this permit. If such construction activities are not begun and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission. (4/04)

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B. VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
 - a. 50 feet of the right-of-way or similar boundary of any public roadway,
 - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
 - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, “other natural vegetation” is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
 - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
 4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.